REMARKS/ARGUMENTS

This paper is responsive to the Office Action dated October 20, 2004, having a shortened statutory period expiring on January 20, 2005, wherein:

Claims 1-8 and 15-81 were previously pending in the application;

Claims 1-6, 8, 15-22, 24-29, 31, 33-38, 40, 42-47, 49 and 51-81 were rejected; and

Claims 7, 23, 30, 32, 39, 41, 48 and 50 were objected to.

No claims have been added or canceled by the current amendment. Claims 1, 15, 33 and 42 have been amended herein to correct various non-substantive errors. Accordingly, claims 1-8 and 15-81 remain currently pending in the present application.

Formal Matters

In the present Office Action, Applicants' claims 7, 23, 30, 32, 39, 41, 48 and 50 were objected to as being dependent up on rejected base claims, but indicated as being otherwise allowable if rewritten in independent form. Applicants wish to express their appreciation for the Examiner's indication of allowability but have elected not to rewrite the indicated claims in independent form at this time. Applicants reserve the right to submit one or more claims including the claim elements indicated as allowable by the Examiner in a subsequent response.

Objection to Applicants' Specification

In the present Office Action, Applicants' disclosure was objected to as failing to provide required application numbers at page 1, lines 5, 6 and 8. Applicants respectfully submit that such an amendment was included within the preliminary amendment submitted with the above-identified patent application (see Preliminary Amendment, dated October 7, 2003, Page 2). Consequently, Applicants respectfully submit that the Examiner's objection is traversed and no further amendment is required.

Rejection of Claims for Nonstatutory Double Patenting

In the present Office Action, Applicants' claims 51, 59, 67 and 75 were rejected under the judicially-created doctrine of double patenting over claims 19 and 27 of U.S. Patent No. 6,631,134 issued to Applicants. In response to the Examiner's rejection, Applicants have included herewith a terminal disclaimer in compliance with 37 C.F.R. §1.321(c). Consequently, Applicants respectfully submit that the Examiner's rejection is overcome.

Rejection of Claims under 35 U.S.C. §102

In the present Office Action, claims 1-6, 8, 15-22, 24-29, 31, 33-38, 40, 42-47 and 49 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,282,170, issued to Bentall et al. (hereinafter, "***Bentall***"). While not conceding that any of the Examiner's cited references qualify as prior art, but instead to expedite prosecution, Applicants have elected to traverse the claim rejections as follows. The following arguments are made without prejudice to Applicants' right to establish, for example in a continuing application, that one or more cited reference(s) do not qualify as prior art with respect to an invention embodiment currently or subsequently claimed.

Applicants respectfully submit that the Examiner's cited portion of ***Bentall*** fail to teach all elements of Applicants' claims. More specifically, Applicants submit that the Examiner's cited portion fails to teach a method of allocating bandwidth in a network comprising

> determining a bandwidth requirement of a requested virtual path between a first node and a second node of a plurality of nodes of said network, each one of said plurality of nodes being coupled to at least one other of said plurality of nodes by at least one of a plurality of links...
> determining whether said physical path has available bandwidth that is at least equal to said bandwidth requirement; and
> allocating said physical path to said requested virtual path if said bandwidth requirement is not greater than said available bandwidth.

as required by Applicants' claim 1 and generally required by Applicants' claims 15, 24, 33, 42, 51, 59, 67 and 75.

Regarding Applicants' claim 1, the present Office Action states that,

> Bentall et al. disclose, in Fig. 2, a network comprises nodes connecting via links. Refer to Fig. 1, when a link failure occurs, a message is sent along an alternate route between custodial nodes (first node and second node) via tandem nodes (intermediate node) to determine spare capacity of each link (discovering a physical path from a first node to the second node by sending a message from the first node and the second node). See step 50, 51. Each tandem node allocates capacity as the message is being sent (identifying intermediate nodes in response to sending the message). See step 52. A shortest route (cost metric requirement) is determined by counting hops (physical distance metric) between the custodial nodes (metric relates to physical distance from the first node to the second node). See step 53. An acknowledgment is returned via tandem nodes to allocate request capacity (allocating requested VP if the requested bandwidth is sufficient). See step 54.

Applicants respectfully disagree.

According to the teaching of ***Bentall***, as cited in the present Office Action, only the shortest route for each channel is used, without respect to the amount of bandwidth or capacity available and/or allocated by the shortest path's component tandem nodes. (see ***Bentall***, Figure 1, Step 54 and accompanying description at Column 1, Line 55 – Column 2, Line 2). While ***Bentall*** further teaches that, "Conventionally, there have been three main characteristics by which restoration methods have been assessed. Firstly the percentage of the capacity of the failed link which is restored using the alternative routes, can be measured." (Bentall, Column 1, Lines 29-32, emphasis supplied) Applicants respectfully submit that this portion of ***Bentall*** actually suggests that the quantity of capacity restored may be uncontrollable and less than "a bandwidth requirement" contrary to Applicants' claim. Moreover, ***Bentall*** fails teach that any measurement of the percentage capacity of a failed link restored using alternative routes is used in the selection of tandem nodes, the transmission of flooding instances, or the selection of a route for acknowledgment.

Consequently, Applicants respectfully submit that the Examiner's cited portion of ***Bentall*** fails to teach, "determining a bandwidth requirement", determining whether a physical path within a network has available bandwidth, "that is at least equal to said bandwidth requirement", and/or "allocating said physical path to said requested virtual path if said bandwidth requirement is not greater than said available bandwidth" as claimed. Applicants therefore respectfully submit that the Examiner's rejection is traversed.

CONCLUSION

Applicant(s) submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450, on January 20, 2005

	1/20/05
Attorney for Applicant(s)	Date of Signature

Respectfully submitted,

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